REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed July 3, 2007 ("Office Action"). At the time of the Office Action, Claims 21-40 were pending in the application. In the Office Action, the Examiner rejects Claims 21-40. To advance prosecution of this case, Applicants amend Claims 21, 22, 29, 30, 37, and 38. Applicants do not admit that any amendments are necessary due to any prior art or any of the Examiner's rejections. Applicants respectfully request reconsideration and allowance of Claims 21-40.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejects Claims 21-40 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,830,068 issued to Brenner, et al. (*"Brenner"*). Applicants respectfully request reconsideration and allowance of Claims 21-40.

Brenner fails to support the rejection for several reasons. First, *Brenner* fails to teach, suggest, or disclose "displaying a plurality of games associated with pari-mutuel wagering, wherein each game is a respective type of casino-styled pari-mutuel wager" as recited in amended Claim 21. Second, *Brenner* fails to teach, suggest, or disclose both a "first game" and a "first event" as recited in amended Claim 21. Third, *Brenner* fails to teach, suggest, or disclose "in response to the selection of the first game, displaying a plurality of tracks where the first game is available" as recited in amended Claim 21.

First, *Brenner* fails to teach, suggest, or disclose "displaying a plurality of games associated with pari-mutuel wagering, wherein each game is a respective type of casino-styled pari-mutuel wager" as recited in amended Claim 21. *Brenner* generally describes an off-track wagering system. (Col. 3, ll. 31-32). According to *Brenner*, the wagering system comprises a user terminal that displays racetracks, races, and wager types. (Col. 3, ll. 60-62; col. 10, ll. 24-27). The wager types in *Brenner*, however, are traditional wager types. (Col. 11, ll. 16-33). In particular, *Brenner* describes (1) win, place, and show wagers; (2) win-place, win-show, and exacta wagers; and (3) trifecta, quinella, daily double, and pick-n type wagers. (Col. 11, ll. 16-33). Thus, *Brenner* describes traditional types of pari-mutuel wagers. There is nothing in *Brenner* that teaches, suggests, or discloses a "casino-styled pari-mutuel wager" as recited in amended Claim 21. *Brenner* also fails to teach, suggest, or

disclose "displaying a plurality of games...wherein each game is a respective type of casino-styled pari-mutuel wager" as recited in amended Claim 21. Because *Brenner* fails to teach, suggest, or disclose these aspects of amended Claim 21, *Brenner* fails to support the rejection.

Second, *Brenner* fails to teach, suggest, or disclose both a "first game" and a "first event" as recited in amended Claim 21. As explained above, *Brenner* describes a user terminal that displays racetracks, races, and wager types. (Col. 3, ll. 60-62; col. 10, ll. 24-27). The Office Action equates a race in *Brenner* with the "first game" and the "first event" recited in amended Claim 21.[1] (Office Action, pages 2-3). In amended Claim 21, however, a "game" is distinct from an "event" -- they are separately recited in the claim. "All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). In addition, the "plurality of games" recited in amended Claim 21 are not races. Amended Claim 21 recites that "each game is a respective type of casino-styled pari-mutuel wager." Because the "plurality of games" recited in Claim 21 are not races, it is improper for the Office Action to equate a race in *Brenner* with both the "first game" and the "first event" recited in amended Claim 21. Thus, the rejection of amended Claim 21 should be withdrawn.

Third, *Brenner* fails to teach, suggest, or disclose "in response to the selection of the first game, displaying a plurality of tracks where the first game is available" as recited in amended Claim 21. In the Office Action, the Examiner admits that *Brenner* does not disclose the "order of steps" in Claim 21. (Office Action, page 3). The Examiner, however, asserts that a different order of steps "does not change the overall functionality...of the pari-mutuel wagering method." (Office Action; pages 3-4). This assertion is incorrect. In some embodiments, the order of steps in amended Claim 21 may offer advantages not realized by the system in *Brenner*. In particular, if a player wishes to play a particular game but does not know the specific tracks at which the game is available, the method of amended Claim 21 allows the player to first select the particular game and then view the tracks where the game is available. Specifically, amended Claim 21 recites, in part:

[1] In particular, the Office Action states that *Brenner* discloses "a plurality of races, i.e. games." (Office Action, pp. 2-3).

- displaying a plurality of games associated with pari-mutuel wagering, wherein each game is a respective type of casino-styled pari-mutuel wager
- receiving a selection of a first one of the plurality of games
- in response to the selection of the first game, displaying a plurality of tracks where the first game is available...

By "displaying a plurality of tracks where the first game is available" "in response to the selection of the first game," amended Claim 21 provides a more user-friendly method for a player who knows which game he/she wants to play but does not know the tracks where the desired game is available. As admitted in the Office Action, *Brenner* fails to teach, suggest, or disclose this order of steps. (Office Action, page 3). In addition, the Office Action does not explain why such modification of *Brenner* would have been obvious to one of ordinary skill.

Not only does *Brenner* fail to teach, suggest, or disclose the order of steps, *Brenner* actually teaches away from the order of steps. In *Brenner*, a player cannot select a type of wager without first selecting a track. (Figure 3; col. 9, ll. 49-52; Col. 11, col. ll. 16-18). In particular, *Brenner* states that "[a]fter selecting a track...the user selects a race" and then "selects an amount to wager." (Col. 9, ll. 49-50; col. 10, ll. 13-14). *Brenner* further states that "following selection of the wager amount...the user selects a desired type of wager." (Col. 11, col. ll. 16-18). By requiring the player to select a track before selecting the type of wager, *Brenner* teaches away from amended Claim 21. "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). (M.P.E.P. § 2141.02). Because *Brenner* teaches away from amended Claim 21, the proposed modification of *Brenner* is improper. Accordingly, the rejection of amended Claim 21 should be withdrawn. For at least the foregoing reasons, Applicants respectfully request reconsideration and allowance of amended Claim 21.

In rejecting Claims 29 and 37, the Office Action employs the same rationale used to reject Claim 21. Accordingly, for reasons analogous to those stated above with respect to amended Claim 21, Applicants respectfully request reconsideration and allowance of amended Claims 29 and 37.

Claims 22-28, 30-36, and 38-40 depend from independent claims shown above to be allowable. In addition, these claims recite further elements that are not taught, suggested, or disclosed by *Brenner*. For example, *Brenner* fails to teach, suggest, or disclose "displaying the at least one instructional frame, wherein the at least one instructional frame comprises...a plurality of rules for playing the first game...and at least one simulated play of the first game according to the plurality of rules" as recited in Claim 23. To reject Claim 23, the Office Action cites a portion of *Brenner* that describes displaying odds for a race. (Col. 13, ll. 44-46). In particular, the cited portion of *Brenner* states that "win odds are listed for each runner and predicted exacta payoffs are listed for each of the possible exacta combinations of runners." (Col. 13, ll. 44-46). However, simply displaying odds for runners and predicted payoffs does not teach, suggest, or disclose "at least one simulated play of the first game" as recited in Claim 23. The displayed odds in *Brenner* merely correspond to predictions for a race. As explained above, the race is *Brenner* is not a "game" as recited in Claim 23. Thus, displaying odds for a race does not teach, suggest, or disclose "at least one simulated play of the first game according to the plurality of rules" as recited in Claim 23. Because *Brenner* fails to teach, suggest, or disclose this aspect of Claim 23, *Brenner* fails to support the rejection. For at least the foregoing reasons, Applicants respectfully request reconsideration and allowance of Claims 22-28, 30-36, and 38-40.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Justin N. Stewart, Attorney for Applicants, at the Examiner's convenience at (214) 953-6755.

Applicants believe no fees are due; however, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
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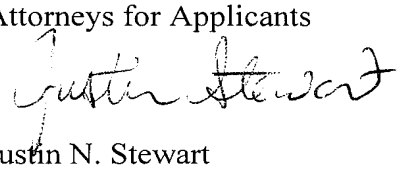

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